

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NEW YORK

ANNA ORTIZ,

Plaintiff,

COMPLAINT

-against-

JURY DEMANDED

DONALD LASKER, JR.,

Defendant.

Plaintiff, Anna Ortiz, by her attorneys, KINDLON SHANKS & ASSOCIATES,
respectfully submits the following:

INTRODUCTION, JURISDICTION AND VENUE

1. This is an action at law to redress the deprivation by the Defendant, acting under color of statute, ordinance, regulation, custom, and/or usage, of a right, privilege or immunity secured to the Plaintiff by the Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, and Fourteenth Amendments to the Constitution of the United States of America with intent to deny Plaintiff her civil rights, all of which arise under federal law, particularly Title 42 U.S.C. sections 1982, 1983, 1985, and 1988, and the Constitutions, Laws and Statutes of the United States and the State of New York.

2. The jurisdiction of this court is invoked under the following statutes:

A. 28 U.S.C. Section 1331, and

B. 28 U.S.C. Section 1343(3).

3. Pursuant to 28 U.S.C. Section 1391(b) venue lies in the Western District of New York.

THE PARTIES

4. At all times relevant, Plaintiff **ANNA ORTIZ** was a prisoner at the Albion Correctional Facility, 3595 State School Road, Albion, New York, in the Western District of New York.

5. At all times relevant, Defendant **DONALD LASKER, JR.**, a correction officer employed by the New York State Department of Corrections at the aforesaid Albion Correctional Facility, was acting under color of state law.

6. Each and all of the acts of the Defendant concerning Plaintiff were and are tortious, in violation of state and federal law as well as constitutional principles, and were done under the color or pretense of the statutes, ordinances, regulations, customs, policies, and/or usages of the State of New York.

7. Plaintiff sues the Defendant in his individual capacity.

THE FACTS

8. The complaint herein is based upon the following facts:

a. At all times herein relevant, Plaintiff was an inmate at the Albion Correctional Facility located at 3595 State School Road, Albion, New York, Orleans County, operated by the New York State Department of Corrections.

b. At all times herein relevant, Donald Lasker, Jr., was a Correction Officer at Albion Correctional Facility.

c. On or about May 28, 2007, Plaintiff was cleaning a classroom in a school building at Albion Correctional Facility.

d. Correction Officer Donald Lasker, Jr. was charged with supervising Anna Ortiz as she was cleaning the aforesaid classroom in a school building on May 28, 2007; upon information and belief, no other individual was present.

e. At approximately 1:30 p.m. on May 28, 2007, Officer Lasker cornered Plaintiff into the classroom and locked the door.

f. After locking the door Correction Officer Lasker then physically assaulted and verbally abused claimant, physically forced her into the back of the room and forcibly subjected her to an act of unlawful sexual intercourse and forcibly raped and sodomized her.

g. Approximately two weeks after the May 28, 2007 rape, on or about June 9, 2007, Plaintiff was again cleaning a classroom in a school building at the prison.

h. Officer Lasker was in charge of supervising Anna Ortiz as she was cleaning the classroom on or about June 9, 2007.

i. At approximately 1:30 p.m. on or about June 9, 2007, Officer Lasker again cornered and locked Plaintiff in a classroom.

j. As before, Officer Lasker physically assaulted, battered and verbally abused the Plaintiff.

k. Officer Lasker attempted to forcibly rape, sodomize and otherwise sexually assault Plaintiff again, however he was interrupted by another correction officer before he could complete those acts.

9. As a result of the aforesaid acts of the Defendant, Plaintiff **ANNA ORTIZ** was deprived of rights, privileges and/or immunities secured by the Constitution and laws of the United States and has been physically and emotionally damaged thereby. The rights, privileges and immunities deprived by Defendant include, but are not limited to:

- a. Right to freedom from unlawful search and seizure;
- b. Right to equal protection under the laws;
- c. Right to freedom from unlawful retention of personal property;
- d. Right to freedom from unlawful imprisonment;
- e. Right to substantive due process;

- f. Right to procedural due process;
- g. Right to freedom from use, and/or threatened use, of excessive force;
- h. Denial of liberty; and
- i. Right to freedom from sexual assault.

10. As a result of the aforesaid acts of Defendant, Plaintiff **ANNA ORTIZ** has suffered damages, including but not limited to denial of constitutional and civil rights, severe and permanent personal injury and pain and suffering, psychological and emotional trauma, loss of potential employment, lost wages, past, present and future, medical expenses and other losses and damages.

**FIRST CAUSE OF ACTION:
DENIAL OF RIGHT TO LIBERTY AND DUE PROCESS OF LAW/42 U.S.C. 1983**

11. Plaintiff repeats and realleges paragraphs "1" through "10" and incorporates the same herein by reference.

12. As a result of the forgoing, Plaintiff **ANNA ORTIZ** was subjected to a denial of liberty and was damaged thereby.

**SECOND CAUSE OF ACTION:
EXCESSIVE FORCE/42 U.S.C. 1983**

13. Plaintiff repeats and realleges paragraphs "1" through "12" and incorporates the same herein by reference.

14. As a result of the forgoing, Plaintiff **ANNA ORTIZ** was subjected to excessive force and was damaged thereby.

**THIRD CAUSE OF ACTION:
ASSAULT AND BATTERY**

15. Plaintiff repeats and realleges paragraphs "1" through "14" and incorporates the same herein by reference.

16. As a result of the foregoing, Plaintiff **ANNA ORTIZ** was subjected to assault and battery and was damaged thereby.

**FOURTH CAUSE OF ACTION:
SEXUAL BATTERY**

17. Plaintiff repeats and realleges paragraphs "1" through "16" and incorporates the same by reference herein.

18. As a result of the foregoing, Plaintiff **ANNA ORTIZ** was subject to sexual battery and was damaged thereby.

**FIFTH CAUSE OF ACTION:
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

19. Plaintiff repeats and realleges paragraphs "1" through "18" and incorporates the same by reference herein.

20. As a result of the foregoing, Plaintiff **ANNA ORTIZ** was subject to intentional infliction of emotional distress and was damaged thereby.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendant as follows:

- a) As and for the first cause of action Plaintiff demands judgment against the Defendant in an amount to be determined by a jury.
- b) As and for the second cause of action Plaintiff demands judgment against the Defendant in an amount to be determined by a jury.
- c) As and for the third cause of action Plaintiff demands judgment against the Defendant in an amount to be determined by a jury.
- d) As and for the fourth cause of action Plaintiff demands judgment against the Defendant in an amount to be determined by a jury.


- c) As and for the fifth cause of action Plaintiff
demands judgment against the Defendant in an
amount to be determined by a jury.
- f) **PUNITIVE DAMAGES** in an amount to be determined by
a jury.

All for a total demand for judgment in an amount to be determined by a jury, together
with interest, counsel fees pursuant to Title 42 U.S.C. § 1988, and the costs and disbursements
of this action.

Dated: December 27, 2007

KINDLON SHANKS & ASSOCIATES

By:



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